

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

VICTORIA J. DITTRICH,)
INDIVIDUALLY,) Civil Action
CANDACE DITTRICH, INDIVIDUALLY,) No. 03-CV-6128
SUEANN KLINE, INDIVIDUALLY AND)
AS THE PARENT AND NATURAL)
GUARDIAN OF THE THREE MINOR)
CHILDREN, SHYLA KLINE,)
SERRIA KLINE AND)
MONTEZ JACKSON,)
GREGORY GLASS, INDIVIDUALLY, and)
JEREMIAH M. HARTMAN,)
INDIVIDUALLY,)

Plaintiffs)

vs.)

RICHARD J. SEEDS, IN HIS OWN)
PERSON AND IN HIS OFFICIAL)
CAPACITY AS CONSTABLE OF THE)
COMMONWEALTH OF PENNSYLVANIA,)
GREG BALLIET, IN HIS OWN PERSON)
AND IN HIS OFFICIAL CAPACITY)
AS CONSTABLE OF THE)
COMMONWEALTH OF PENNSYLVANIA,)
VINCENT A. STAHL, IN HIS OWN)
PERSON AND IN HIS OFFICIAL)
CAPACITY AS CONSTABLE OF THE)
COMMONWEALTH OF PENNSYLVANIA,)

Defendants)

DAVID JONES,)
Plaintiff) Civil Action
No. 04-CV-1302

vs.)

RICHARD J. SEEDS;)
GREG BALLIET; and)
VINCENT A. STAHL,)

Defendants)

O R D E R

NOW, this 28th day of September, 2005, upon consideration of the Statement of Uncontroverted Material Facts and Motion for Summary Judgment of Defendants Richard J. Seeds and Vincent A. Stahl, which motion was filed October 29, 2004; upon consideration of the Answer of Plaintiffs to the Motion for Summary Judgment of Defendants Richard J. Seeds and Vincent A. Stahl, which answer was filed November 12, 2004; upon consideration of the Statement of Uncontroverted Material Facts and Motion for Summary Judgment on Behalf of Defendant Greg Balliet, which motion was filed October 27, 2004; upon consideration of the Answer of Plaintiffs' to Motion for Summary Judgment on Behalf of Defendant, Greg Balliet, which answer was filed November 10, 2004; upon consideration of the Statement of Uncontroverted Material Facts and Motion for Summary Judgment of Plaintiffs, Victoria J. Dittrich; Candace Dittrich; Sueann Kline, Individually and as the Parent and Natural Guardian of Three Minor Children: Shyla Kline, Serria Kline, and Montez Jackson; Gregory Glass; and Jeremiah M. Hartman, which motion was filed October 29, 2004; upon consideration of the Statement of Controverted Material Facts and Response of Defendants Richard J. Seeds and Vincent A. Stahl to the Motion for Summary Judgment of Plaintiffs, which response was filed November 10, 2004; upon consideration of the Answer of Defendant

Greg Balliet to Plaintiffs' Motion for Summary Judgment, which answer was filed November 10, 2004; upon consideration of the pleadings, record papers, exhibits and depositions submitted by the parties; upon consideration of the briefs of the parties; after oral argument conducted before the undersigned March 22, 2005; and for the reasons articulated in the accompanying Opinion,¹

IT IS ORDERED that the motions for summary judgment of defendants Seeds, Stahl and Balliet are granted in part and denied in part.

IT IS FURTHER ORDERED that the motions for summary judgment of defendants Seeds, Stahl and Balliet based upon qualified immunity are denied.

IT IS FURTHER ORDERED that the motions for summary judgment of defendants Seeds, Stahl and Balliet based upon derivative immunity are denied.

IT IS FURTHER ORDERED that the motions for summary judgment of defendants Seeds, Stahl and Balliet for dismissal of plaintiffs' claims for intentional infliction of emotional distress is granted in part and denied in part.

IT IS FURTHER ORDERED that defendants' motion for summary judgment on the claims of Candace Dittrich; Sueann Kline, Individually and as the Parent and Natural Guardian of Shyla

¹ By Order of the undersigned dated May 20, 2004, we approved the Stipulation of all parties to consolidate these two actions for all purposes.

Kline, Serria Kline, and Montez Jackson; Gregory Glass; and Jeremiah M. Hartman for intentional infliction of emotional distress is granted.

IT IS FURTHER ORDERED that Count Nine of the Complaint is dismissed as it relates to Candace Dittrich; Sueann Kline, Individually and as the Parent and Natural Guardian of Three Minor Children: Shyla Kline, Serria Kline, and Montez Jackson; Gregory Glass; and Jeremiah M. Hartman

IT IS FURTHER ORDERED that defendants' motions for summary judgment on the claim of plaintiff Victoria Dittrich for intentional infliction of emotional distress are denied.

IT IS FURTHER ORDERED that the motions of defendants Seeds, Stahl and Balliet for summary judgment on the claims of plaintiffs for punitive damages are granted in part and denied in part.

IT IS FURTHER ORDERED that plaintiffs' claims for punitive damages in their federal causes of action (Counts Five, Seven and Eight in case number 03-CV-06128 (the "Dittrich Complaint") and that portion of Count One alleging unlawful seizure of a dog in violation of the Fourth Amendment of the United States Constitution, and Count Two, in case number 04-CV-01302 (the "Jones Complaint")) are dismissed.

IT IS FURTHER ORDERED that, in all other regards, concerning plaintiffs' claims for punitive damages (in

plaintiffs' remaining pendent state-law causes of action), defendants' motions for summary judgment are denied.

IT IS FURTHER ORDERED that the motions for summary judgment of defendants Seeds, Stahl and Balliet for dismissal of plaintiffs' claims of deprivation of property interests in violation of the Fourteenth Amendment are granted.

IT IS FURTHER ORDERED that Count Seven of the Complaint of Victoria J. Dittrich; Candace Dittrich; Sueann Kline, Individually and as the Parent and Natural Guardian of Three Minor Children: Shyla Kline, Serria Kline, and Montez Jackson; Gregory Glass; and Jeremiah M. Hartman is dismissed.

IT IS FURTHER ORDERED that Count Two of the Complaint of David Jones is dismissed.

IT IS FURTHER ORDERED that the motions for summary judgment of defendants Seeds, Stahl and Balliet for dismissal of plaintiffs' claim of violations of the Fourth Amendment through unlawful entry, unlawful search and seizure, and unreasonable and excessive use of force are denied.

IT IS FURTHER ORDERED that the motions for summary judgment of defendants Seeds, Stahl and Balliet for dismissal of plaintiffs' claims of conspiracy are denied.

IT IS FURTHER ORDERED that the motions for summary judgment of defendants Seeds, Stahl and Balliet for dismissal of

all of plaintiffs' claims against defendant Stahl are denied.

IT IS FURTHER ORDERED that plaintiffs' motion for summary judgment is denied in its entirety (including on plaintiffs' claims for trespass, conspiracy, and plaintiffs' Fourth and Fourteenth Amendment claims).

BY THE COURT:

/s/ James Knoll Gardner
James Knoll Gardner
United States District Judge